

From: [Robert Werner](#)  
 To: [Bruce.mosier@cao.hctx.net](mailto:Bruce.mosier@cao.hctx.net)  
 Cc: [Barbara Nann](#); [Lydia Johnson](#); [Stephen Tzhone](#)  
 Subject: San Jacinto River Waste Pits (06ZQ) - Concerning Harris County Assistance to Allow EPA Access to the Site  
 Date: 02/24/2009 05:32 PM

Bruce (Assistant County Attorney for Harris County in Houston, 713.755.4837),

Reference our phone call earlier this morning concerning the following:

Harris County Account Number: 042-235-000-0093  
 Current Owner of Record Since 08/03/1965: (b) (6), Trustee  
 Property Address: (b) (6) Houston, TX 77087-4031  
 Property Description: Tr 4K, Abst 330 J T Harrell, East Fwry 77530  
 Property Tax Delinquencies: Tax Delinquencies since 1996

1. The Environmental Protection Agency (EPA) believes the General Warranty Deed, dated August 3, 1965, recorded in Book 6037, Page 352, of the Harris County Deed Records, is the current recorded document that confirms "(b) (6)", Trustee" is the above described property's current owner of record. EPA has confirmed the same (b) (6) died on February 24, 1993. The correct spelling of (b) (6) name is (b) (6)

2. Applicable Local Tax Delinquencies have accumulated against this property since 1996. Therefore, because of these accumulated tax delinquencies, EPA believes the property has been abandoned by its deceased current owner of record and by any person or entity to whom the property might be bequeathed.

3. Your assistance is requested to:

a. Review historical Harris County tax records to identify all individual(s) or business entity(ies) that paid applicable property taxes for the above property during the period 1965 through 1995.

b. Confirm that the General Warranty Deed, dated August 3, 1965, recorded in Book 6037, Page 352, of the Harris County Deed Records, is the most current recorded document that identifies "(b) (6)", Trustee." as the property's current owner.

c. Determine if (b) (6) ownership of the property has been bequeathed to another person or entity.

d. In the interim, while Harris County attempts to transfer ownership of this abandoned property from its current owner of record to a new owner of record via a tax sale, please provide EPA with documented authorization that allows EPA to access the above identified abandoned property for the purpose of conducting needed remedial activities. If you have legal questions concerning suggested wording of an access agreement or any other questions on this matter, please call Ms. Barbara Nann at 214.665.2157, or fax her at 214.665.6460, or mail questions to her at the following address:

Ms. Barbara Nann  
 Office of Regional Counsel, Superfund Branch (6RC-S)

United State Environmental Protection Agency  
1445 Ross Avenue  
Dallas, Texas 75202-2733

4. Based upon currently available information it appears that Harris County is not, nor has ever been, an "owner or operator" of the abandoned property. The County appears to only be acting as a caretaker of the abandoned property until its current recorded owner can be changed, via a tax sale, to a new owner of record.
5. Concerning your liability questions, please refer to the following web site that contains an EPA Memorandum subject being "Policy on Interpreting CERCLA Provisions Addressing Lenders and Involuntary Acquisitions by Government Entities." <http://www.epa.gov/compliance/resources/policies/cleanup/superfund/lendr-aquis-mem.pdf>
6. I'm also forwarding the following applicable information to you.

**CERCLA section 101(20)(D):**

The term "owner or operator" does not include a unit of State or local government which acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign.

**CERCLA section 107(a) imposes liability on four classes of persons:**

- current owners and operators of a facility;
- former owners and operators of a facility;
- persons who arranged for treatment or disposal of hazardous substances (commonly referred to as "generators"); and
- transporters of hazardous substances who selected the disposal site.

Any person who falls within the definition of one of these classes may be held liable under CERCLA unless one of the statutory defenses or exemptions to liability applies.